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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/774,847	01/31/2001	Harald Krondorfer	1466	6258

7590 10/18/2002
STRIKER, STRIKER & STENBY
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Huntington, NY 11743

EXAMINER

TRAN, LOUIS B

ART UNIT	PAPER NUMBER
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3721

DATE MAILED: 10/18/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

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Office Action Summary

Application No.

09/774,847

Applicant(s)

KRONDORFER ET AL.

Examiner

Louis B Tran

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 29 August 2002.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-9 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-9 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1, 2, 4-7, and 9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Jares (5,172,522) in view of Minamidate et al. (GB 2080920).

Jares discloses the invention substantially as claimed including a hand power tool comprising a housing 1, at least one handle having at least one gripping part 3 but does explicitly show an elastic vibration-damping element, a mounting part mounted on said elastic element, said at least one gripping part being mounted on said housing through said elastic element and through said mounting element, and at least one movable safety element through which said gripping part is connected with said mounting part, said safety element being movable to avoid transmission of vibrations through the safety element during predeterminable operation.

However, Minamidate et al. teaches the use of an elastic vibration-damping element a mounting part mounted on said elastic element, an at least one gripping part 6 being mounted on said housing through said elastic element and through said mounting element, and at least one movable safety element 3 through which said

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gripping part 6 is connected with said mounting part 7 as clearly seen in contact in Figure 1, said safety element being movable to avoid transmission of vibrations through the safety element during predeterminable operation (as in claim 1), a safety element 3 in the form of a flexurally non-rigid part (as in claim 2), as in column 2, line 101, formed as a rigid component which is connected through said elastic element with said gripping part and mounting part (as in claim 4), where elastic element surrounds safety element (as in claim 5), wherein safety element is arranged in said elastic element along a central axis (as in claim 6), wherein safety element in a mounted condition is loaded by pulling and elastic element in a mounted condition is loaded by pressure (as in claim 7), as seen in Figure 1, and wherein safety element determines a maximum deviation of said elastic element from a base position in a direction selected from a group consisting of a tilting direction, a displacing direction, and both (as in claim 9) for the purpose of providing vibration-damping while rigidly supporting a hand grip to facilitate positive control as described in column 1 line 25 of Minamidate et al.

Therefore, it would have been obvious for one having ordinary skill in the art to provide Jares with a vibration improved handle in order to provide vibration-damping while rigidly supporting a hand grip to facilitate positive control.

With respect to claim 3, the modified device of Jares discloses the claimed invention except for a safety element is formed as a metal wire. It would have been obvious to one having ordinary skill in the art at the time the invention was made to utilize a rope instead of a metal wire, since it has been held to be within the general skill

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of a worker in the art to select a known material on the basis of its suitability for the intended use as a matter of obvious design choice. *In re Leshin*, 125 USPQ 416.

3. Claim 8 is rejected under 35 U.S.C. 103(a) as being unpatentable over Jares (5,172,522) in view of Minamidate et al. (GB 2080920) as applied to claim 1 above, and further in view of Radle et al. (5,697,456).

The modified device of Jares discloses the invention substantially as claimed including a safety element but does not show a safety element formed as a band which surrounds said elastic element.

However, Radle et al. teaches the use of a safety element as a band 100 which surrounds an elastic element 98 for the purpose of acting as a covering element therefore protecting vibration dampening components from outside conditions as in column 6, line 20 seen in Figure 3.

Therefore, it would have been obvious for one having ordinary skill in the art to provide the modified device of Jares with a band acting as a cover in order to provide covering from outside elements.

Conclusion

4. Applicant's remarks have been fully considered but they are not persuasive. Applicant contends that the tie-rod 3 does not connect the gripping part 6 with the mounting part 7. According to the applicant, the tie-rod passes through a wide boring of the mounting part 7, which it does not touch.

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Examiner draws the attention of the applicant to Figure 1 where there is a portion of overlap between the gripping part 6 and the mounting part 7. Clearly, these two surfaces are in contact with one another or are "connected". These two surfaces are able to be "connected" due to the mounting of gripping part 6 to tie rod 3. Therefore, Minamidate reads on the language of the claims.

Applicant further contends that the tie-rod in Minamidate may not be movable in the sense of not transmitting vibrations. Applicant further cites Minamidate as "the vibration ... will then be transmitted via the tie-rod 3 to the second vibration damping body 4."

Examiner draws the attention of the applicant to page 1 line 45 where the second connecting member 3 has less rigidity than the first connecting member. Since the tie rod is less rigid and is movable, it is inherent that there is a reduced vibration. Moreover, applicant has selectively misconstrued Minamidate's statement. The entire passage reads, on page 2, lines 35-40, "The vibration is directly transmitted via the connecting means 2 to the vibration receiving member 1 with substantially the same amplitude and frequency as is produced by the vibration source, and it will then be transmitted via the tie rod 3 to the second vibration-damping body 4."

In view of the entire statement, it is clear that the direct transmission of vibration is directed toward the connection between connecting means 2 and vibration receiving member 1. Minamidate merely states that the vibration is transmitted via the tie rod but does not specifically state that there remains an equivalent amplitude of vibration transmitted via the tie rod. If applicant is suggesting that his invention completely

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eliminates all possible vibration, the examiner requests such evidence in the specification as to how this is physically possible. Inherently, applicant's invention would also transmit a small amount of vibration as it is understood by the examiner.

For the reasons above, the grounds of rejection are deemed proper.

5. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Louis B Tran whose telephone number is 703-305-0611. The examiner can normally be reached on 8AM-6PM Monday-Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Rinaldi I Rada can be reached on 703-308-2187. The fax phone numbers for the organization where this application or proceeding is assigned are 703-305-3579 for regular communications and 703-305-3579 for After Final communications.

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Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-1148.

lbt
October 15, 2002

A handwritten signature in black ink, appearing to read 'Rinaldi I. Rada', with a long horizontal line extending to the right.

Rinaldi I. Rada
Supervisory Patent Examiner
Group 3700